

REMARKS

Upon amendment, Claims 1-10 are pending in this application. Claim 10 has been amended to recite a method of treating breast cancer. Claim 11 has been canceled without prejudice. No new matter has been added

Applicants respectfully reserve the right to pursue any non-elected, canceled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, is respectfully requested, as the application is in condition for allowance.

Rejections under 35 U.S.C. § 112, First Paragraph

Applicants respectfully thank the Examiner for the withdrawal of the prior rejection of claims 1-11 under 35 U.S.C. 112, First Paragraph.

Claims 10 and 11 remain rejected under 35 U.S.C. 112, First Paragraph, as allegedly failing to comply with the enablement requirement. In particular, the Office Action alleges that “the specification while being enabling for treating breast cancer does not reasonably provide enablement for treating any or all hyperproliferative disorders and any or all cancer, as generically embraced in the claims.”

Without conceding the validity of the Examiner’s allegation, and solely for the purposes of advancing prosecution of the present application, Claim 10 has been amended to recite a method of treatment of breast cancer. No new matter has been added.

Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 112, First Paragraph be reconsidered and withdrawn.

Obviousness-type Double Patenting

Claims 1-11 stand provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-14 of copending Application Serial No. 11/078,681.

Without conceding the validity of the Examiner's rejections, Applicants submit herewith a duly executed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) over U.S. Patent Application Serial No. 11/078,681, thereby removing the provisional obviousness-type double patenting rejections.

Therefore, Applicants respectfully request withdrawal of the provisional obviousness-type double patenting rejections.

CONCLUSION

In view of the amendments and remarks made herein, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are respectfully requested.

Applicants have submitted a petition for an extension of time herewith, but believe that no additional fees are required for consideration and entry of this paper. However, Applicants authorize the Director to charge any required fee or credit any overpayment to Deposit Account No. 04-1105, under Order No. 67322(303981).

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Respectfully submitted,

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